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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,708	12/20/2000	Paul M. Brennan	91436-312	3270
33000	7590	07/14/2004	EXAMINER	
DOCKET CLERK P.O. DRAWER 800889 DALLAS, TX 75380			KNOWLIN, THJUAN P	
			ART UNIT	PAPER NUMBER
			2642	18

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,708

Applicant(s)

BRENNAN ET AL.

Examiner

Thjuan P Knowlin

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of the Appeal Brief filed on 05/03/04, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.
2. To avoid abandonment of the application, appellant must exercise one of the following two options:
 - (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
 - (2) request reinstatement of the appeal.
3. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Brilla et al (US 6,389,276).

5. In regards to claims 1, 6, 7, 9, 10, 11, 12, 16, 22, 23, 27, 30, and 31, Brilla discloses a method for handling an unsuccessful synchronous call attempt (e.g., busy/no answer) from a calling party to a called party, said method comprising: monitoring a synchronous call attempt from said calling party (calling party 103a) to said called party (called party 104) (col. 6 lines 57-66); determining at least one communication address related to said called party (e.g., voice mail system, col. 7 lines 8-22); dropping said synchronous call attempt to said called party; after dropping said synchronous call attempt to said called party, receiving a message composed by the calling party; and sending said message to said determined communication address (e.g., voice mail message, col. 7 lines 23-30).

6. In regards to claims 2, 17, and 18, Brilla discloses the method and computer readable medium, further comprising determining that said synchronous call attempt to said called party is unsuccessful (col. 10 lines 21-25).

7. In regards to claim 3, Brilla discloses the method, wherein said determining that said synchronous call attempt to said called party is unsuccessful comprises detecting an indication from the calling party that said synchronous call attempt to said called party is unsuccessful (col. 10 lines 21-36).

8. In regards to claims 4, 19, and 28, Brilla discloses the method and computer readable medium, wherein said indication comprises said calling party pressing a predetermined key or keys on a communication device (col. 10 lines 21-36).

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9. In regards to claims 5, 20, and 29, Brilla discloses the method and computer readable medium, wherein said indication comprises said calling party using a vocal command (col. 7 lines 8-22).

10. In regards to claims 8 and 21, Brilla discloses the method and computer readable medium, wherein said at least one communication address comprises at least one of a telephone number, pager number, e-mail address, voice messaging address, mobile phone number, and Internet instant messaging address (col. 8 lines 5-17, col. 15 lines 10-22, and col. 16 lines 13-23).

11. In regards to claims 13, 14, 15, 24, 25, and 26, Brilla discloses the method and computer readable medium, wherein said receiving a message composed by a calling party (col. 15 lines 23-29) comprises: where said at least one communication address related to the called party comprises a plurality of communication addresses, presenting said calling party with a list of messaging options based on said plurality of communication addresses; allowing the calling party to select a messaging option for use; and commencing a message compose session related to said selected messaging option and pre-filling a communication address for said message with a communication address related to said messaging option (col. 10 lines 19-62).

12. Examiner takes official notice that claims 1-31 read on a calling party using a wireless phone to call a called party's wireless phone. The call may be unsuccessful (no answer, out of coverage area, etc.) and it will then be dropped. The claimed "sending said message to said determined communication address," simply reads on

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the calling party deciding to, for example, leave a voice mail message or deciding to send a text message.

Response to Arguments

13. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Picard et al (US 6,233,318) teach a system for accessing multimedia mailboxes and messages over the Internet and via telephone. Gross et al (US 6,389,117) teach a single telephone number access to multiple communications services.


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P Knowlin whose telephone number is (703) 308-1727. The examiner can normally be reached on Mon-Fri 8:00-4:30pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703)305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thjuan P. Knowlin
July 8, 2004


AHMAD MATAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600